

REMARKS

Claims 1-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Dougherty in view of Lange. The Examiner has acknowledged that Dougherty fails to teach (i) an index that represents a measure of commercial market volatility, or (ii) assigning a target value for the index at an expiration of a derivative contract, as set forth in claim 1. However, the Examiner has asserted that both of these claim limitations are taught by Lange. For the reasons set forth below, applicant respectfully disagrees with the Examiner's reasoning on these points. In particular, the applicant respectfully submits that Lange fails to teach the use of an index representing a measure of commercial market volatility for assigning a target value at the expiration of a derivative contract.

As explained more fully in the specification, one example of an index that measures commercial market volatility is the so-called "Commercial Markets Index." The mathematical formula used for calculating the Commercial Markets Index is shown, for example, at pp. 14-18 of the specification. As shown in Table 6 (at p. 16 of the specification), the value of the Commercial Markets Index at any point in time may differ from the unit asset value (UAV) of the bundle of securities associated with the Index, depending upon the price volatility of the bundle of securities over a given period of time. Compare column entitled "UAV" in Table 6 with column entitled "Market Value" in Table 6. As shown more specifically on p. 17 of the specification, the price "volatility" of the underlying bundle of securities is reflected in the Commercial Markets Index as a consequence of the Adjustment Factor (AF_i) that is used in the formula for calculating the Index. Since this Adjustment Factor changes when the Commercial Markets Index

moves between short and long positions, the use of this factor in the Index formula causes the Index¹ to reflect the volatility of the underlying securities at a given point in time.

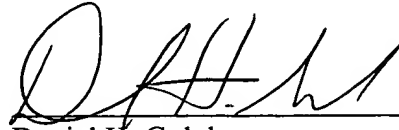
Applicant has carefully reviewed the portions of the Lange reference cited by the Examiner (i.e., col. 22, lines 48-67; col. 23, lines 1-40), and has failed to find any suggestion of an index that represents a measure of commercial market volatility, or the use of such a commercial market volatility index for assigning a target value at the expiration of a derivative contract, as required by pending claim 1. Since none of the references cited by the Examiner disclose these limitations, it is respectfully submitted that the Examiner has not established even a prima facie case of obviousness with respect to pending independent claim 1. To the extent that the Examiner maintains the position that Lange discloses a commercial market volatility index, or the use of such an index for assigning a target value at the expiration of a derivative contract, applicant respectfully requests that the Examiner explain in further detail in the next official action how Lange discloses the use of an index that measures commercial market volatility, as required by the present claims.

In view of the foregoing, it is respectfully submitted that independent claim 1 is allowable over the cited references. It is further submitted that all dependent claims are allowable because they depend from an allowable base claim. A Notice of Allowance is therefore earnestly solicited.

¹ It bears noting that the broadest claim of the present application (i.e., claim 1) is not limited to derivative contracts tied to the Commercial Markets Index, but instead is directed more generally to a derivative contract that is tied to an index of commercial market volatility. The Commercial Markets Index is one example of such a measure of commercial market volatility. The specific Adjustment Factor (AF) used in the Commercial Markets Index is recited specifically in pending dependent claim 18.

The Commissioner is hereby authorized to charge any fee due in connection with this filing to Deposit Account 50-0310.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D.H. Golub', is written over a horizontal line.

Daniel H. Golub
Reg. No. 33,701

MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
215-963-5055

February 3, 2003